

OCT 7 1994
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RESPONSE REQUESTED

ORIGINAL

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Jose Morales, #B-33187
Mule Creek State Prison
P.O. Box 409000; CG-156L
Ione, CA 95640
May 30, 1994

Supreme Court, U.S.
FILED

JUN 3 1994

OFFICE OF THE CLERK

RECEIVED

JUN - 3 1994

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Mr. William K. Suter, Clerk
Supreme Court of the U.S.
OFFICE OF THE CLERK
WASHINGTON, D.C. 20543

DEAR Mr. Sutter:

Re: Docket No. 93-1462 /

This will acknowledge receipt of your letter dated May 10, 1994 of which was received by the undersigned on May 28, 1994.

You are requesting that I respond to the California Attorney General's Petition for Writ of Certiorari where no Certiorari has been granted. I consider this to be rather unusual. The government is never asked to respond when prisoners file Certiorari petitions in propria persona before this court. Your request is rather strange to say the least.

In any event, I'm an uneducated convicted felon and an indigent who has never practiced law before the United States Supreme Court. I would not know how to file an informal response to the California Attorney General's petition for writ of certiorari.

Enclosed please find an Ex Parte Motion for Appointment of Counsel to research, brief, submit and argue the merits of the California State Attorney's Petition for Writ of Certiorari before the Supreme Court of the United States.

My understanding of the U.S. Supreme Court procedures is that you either grant or deny certiorari to the petitioning litigant. I'm not familiar or aware of any secret or informal responses to be submitted outside a direct court order, ordering that a certiorari be granted, attorneys appointed and briefs be submitted.

Whatever scheming is going on with you and Deputy Attorney General James Ching should be brought out in the open and made public. Rule 33 of the Federal Rules of Civil Procedures makes reference to "Interrogatories to Parties." Why should I submit or respond to the government's interrogatory request. That is, especially since I was coerced to plead guilty to a case with false and fabricated fingerprint evidence.? Had I known that I was being deceived into accepting a guilty plea because the prosecution knew that he was setting me up with false fingerprints from a hand that did not belong to the victim in the 1980 case, I would not have accepted to plead guilty to the crime of murder in the second degree. James Ching and his Los Angeles District Attorneys and police responsible for fabricating false fingerprint evidence against me, all need to be arrested and prosecuted by the U.S. Justice Department.

Respectfully Submitted

Jose Morales
JOSE MORALES, #B-33187

cc: James Ching, DAG

1 Jose Ramon Morales , #B-33187
2 Mule Creek State Prison
3 P.O. Box 409000; CG-156L
4 Ione, CA 95640

5 In Propria Persona

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8 SUPREME COURT OF THE UNITED STATES
9 WASHINGTON, DISTRICT OF COLUMBIA

10 JOSE RAMON MORALES ,) CASE NO: 93-1462
11 Plaintiff ,)
12 -vs-) EX PARTE MOTION FOR
13 CAILF. DEPARTMENT OF CORRECTIONS) APPOINTMENT OF COUNSEL
14 Defendant .)
15

16 TO: THE HONORABLE COURT IN THE ABOVE CAUSE OF ACTION:

17 NOW COMES, JOSE RAMON MORALES , defendant in the
18 above cause of action who moves this court for an Ex Parte Order for
19 Appointment of Counsel to represent defendant's interest in the above
20 bona fide legal action and for which defendant has no other means to
21 gain meaningful access to the courts due to incarcerated status of
22 indigent defendant herein.

23 This motion is based on this Ex Parte Motion, on the att-
24 ached declaration, on the memorandum of points and authorities herein,
25 on the papers and records filed in this matter and on such other
26 evidence presented to the court in support of this motion.

27 DATED: MAY 30, 1994

28 RESPECTFULLY SUBMITTED:


JOSE RAMON MORALES

1 DECLARATION OF

2 JOSE MORALES

3 1. That I am the defendant in the within bona fide legal
4 cause of action, am a poor indigent incarcerated prisoner, and have
5 at risk threatened personal and/or property rights as a result of
the within cause of action;

6 2. That declarant is a layperson, untrained in law, and
7 as a result of poor, indigent, and incarcerated status is barred
8 from access to the courts to protect personal and/or property rights
9 as guaranteed by due process and equal protection clauses of both
the state and federal constitutions;

10 3. That declarant is forced to represent self in defense
11 of the within suit, is without funds to employ counsel, and has no
12 legal training, experience, access to legal materials and/or access
13 to the courts necessary to adequately and reasonably protect declar-
14 ant's present and future personal and/or property rights;

15 4. That declarant is being harrassed by plaintiff herein
16 in as much as declarant is indigent and incarcerated, unable to
17 retain an attorney, and that without adequate representation and
18 meaningful access to the courts declarant is likely to suffer adverse
19 judgement and therefrom a significant issue of liability would arise
20 impacting declarant's personal and/or property rights both present
21 and in the future;

22 5. That declarant has been incarcerated since July
23 22 , 1982 and will remain incarcerated through
24 approximately FOREVER , 19 ;

25 6. That as a right guaranteed by the due process and
26 equal protection clauses of the state and federal constitutions
27 declarant has a right to the appointment of legal counsel in the
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within cause of action based upon: (a) declarant is confronted with a bona fide legal action threatening personal and/or property interest, (b) declarant is indigent and in prison, (c) declarant plans to defend from the action herein, and (d) adverse judgement would affect declarant's present and/or future property rights;

7. That declarant is entitled to the appointment of coun-

sel and declarant does declare that such appointed counsel should be awarded legal fees in accordance with standards within the community for similar cases;

8. That attorney fees should be ordered by this court to be paid pursuant to, but not limited to, (a) Business and Professions Code, Section 6210, (b) Government Code, Section 27706, and/or (c) legal duty and obligation of law enforcement/correctional agency to provide for the constitutionally mandated needs of wards remanded to custody;

9. That without relief requested herein that declarant will continue to suffer deprivations of constitutional and/or other legal rights as stated above.

VERIFICATION

I have read the above statements and do declare upon
penalty of perjury that these statements are true and correct as
based upon information and belief. Executed this 30th day of
May, 1974 at MULKEY CREEK PRISON
California pursuant to Code of Civil Procedure, Sections 446 and
2015.5.


M. L. Hayes

DECLARANT

POINTS AND AUTHORITIES

INDIGENT PRISONER WHO FACES BONA FIDE LEGAL ACTION THREATENING INTEREST IS ENTITLED TO ACCESS TO COURTS AS GUARANTEED BY DUE PROCESS AND EQUAL PROTECTION CLAUSES OF THE CONSTITUTIONS OF CALIFORNIA AND THE UNITED STATES. Yarbrough v. Superior Court, (1985) 39 C.3d 197; Payne v. Superior Court, (1976) 17 C.3d 908.

It is uncontrovertible that defendant herein is imprisoned, is indigent without funds to employ counsel, and faces a bona fide legal action threatening personal and/or property interest by virtue of having to defend from this suit. Further, defendant is acting Pro Per in own defense without adequate training or experience, is without adequate access to legal materials, and is without meaningful and/or viable access to the courts. Woods v. Superior Court, (1974) 36 CA3d 811, Yarbrough v. Superior Court, (supra) 39 c.3d 197.

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INDIGENT PRISONER WHO IS UNTRAINED AND/OR INEXPERIENCED IN CIVIL LAW SHOULD BE APPOINTED COUNSEL. Payne v. Superior Court, (supra) 17 c.3d 908.

In light of this bona fide legal action threatening defendant's personal and/or property rights, the court must appoint legal counsel in the instant case. Yarbrough v Superior Court, (supra) 39 C.3d 197, 206.

Before denial of defendant's motion this court must at minimum hold a hearing and/or make factual determination using guidelines set down by the California Supreme Court in Payne. Payne v. Superior Court, (supra) 17 c.3d 908, 924; Yarbrough v. Superior Court, (supra) 39 c.3d 197, 203-204, 207.

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THE DECISIONS OF THE SUPREME COURT AND COURT OF
APPEAL ARE BINDING AND MUST BE ACCEPTED BY THE
TRIAL COURTS. Woods v. Superior Court, (supra)
36 Ch 3d 811, 814; Auto Equity Sales, Inc. v.
Superior Court, () 57 C.2d 450, 455.

The rule of stare decisis is a rule of jurisdiction.

Auto Equity Sales, Inc. v. Superior Court, (supra), citing Abelleria
v. Distict Court of Appeal, () 17 C.2d 280, 288.

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ATTORNEYS FEES SHOULD BE ORDERED PAID BY THIS COURT.
6th, 13th, and 14th Amendments to the United States
Constitution.

It stands to reason that if defendant is entitled to court
appointed counsel, that such counsel is entitled to adequate and
reasonable compensation equal to that afforded others in the comm-
unity for similar services. 13th and 14th Amendments to United
States constitution; Yarbrough v. Superior Court, (supra) 39 C.3d
197, descent at 207 and continuing be Chief Justice Bird.

This court should order funds be provided from appropriate
sources including, but not limited to, provisions pursuant to
Business and Professions Code, Section 6210; Government Code, Sec-
tion 27706; from the law enforcement/correctional agency of custody
which is legal mandated to provided for constitutionally required
needs of defendant just as food, clothing, shelter, medical and
other needs must be provided for. Defendant's legal needs are sim-
ply an extension of other constitutionally protected rights which
serves both the needs of the individual and society at large. In-
deed, for the state to allow personal and/or property rights to be
violated, which in this case could have far reaching impact on
defendant's future earning and family ties, would transgress the

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constitution. Under circumstances as presented herein surely the
state should afford defendant the protection afforded in criminal
proceedings leading to incarceration or the in prison repair of an
ingrown hangnail, contact visitation, mail censorship, or religious
practice.

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LEGAL PAPERS SUBMITTED BY INDIGENT PRO PER
PRISONER UNTRAINED IN LAW MUST BE HELD TO
LESS STRIGENT STANDARDS THAN THOSE DRAFTED
BY MEMBERS OF THE BAR AND MUST BE VIEWED IN
LIGHT MOST FAVORABLE TO PRO PER. Haines v.
Kerner, (1972) 404 U.S. 519; 92 s. Ct. 594.

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CONCLUSION

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Defendant to this suit is an indigent prisoner who is
untrained in law and being denied meaningful access to the courts.
Defendant has a constitutional right to meaningful access to the
courts and to appointment of legal counsel to protect personal
and/or property rights which are threatened by this bona fide legal
action. Defendant further enjoys the right to have legal counsel
compensated by whatever means ordered by this court.

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PRAYER

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WHEREFORE, Good Cause having been shown, this court should
grant the motion as follows:

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1. declare defendant's rights as to issues raised herein;
2. order appointment of counsel to defend defendant in
the above cause of action;
3. order the payment of counsel appointed herein a sum
customary for such a case within the community to be paid from a
source determined by the court;
4. in the alternative, hold hearing(s) and/or otherwise

1 make findings of fact as to issues pertaining to appointment and
2 compensation of counsel to defend defendant in this suit;

3 5. order that all records pertaining to this motion be
4 sealed subject to inspection only upon order of this court after a
showing of good cause;

5 6. order such other and further relief as is just, pro-
6 per and equitable.

7 DATED: _____

8 RESPECTFULLY SUBMITTE:

9 DEFENDANT
10 IN PRO PER

			Location	Track Length	Distance	TV Coverage
			Daytona Beach, FL	2.5 mi.	500 mi.	CBS
			Rockingham, NC	1.017 mi.	500 mi.	TNN
			Richmond, VA	.75 mi.	400 laps	TBS
			Atlanta, GA	1.522 mi.	500 mi.	ABC
			Darlington, SC	1.366 mi.	400 mi.	ESPN
			Bristol, TN	.533 mi.	500 laps	ESPN
			N. Wilkesboro, NC	.625 mi.	400 laps	ESPN
			Martinsville, VA	.526 mi.	500 laps	ESPN
			Talladega, AL	2.66 mi.	500 mi.	ESPN
			Sonoma, CA	2.52 mi.	300 km.	ESPN
			Charlotte, NC	1.5 mi.	70 laps	TNN
			Charlotte, NC	1.5 mi.	600 mi.	TBS
			Dover, DE	1 mi.	500 mi.	TNN
			Pocono, PA	.25 mi.	500 mi.	CBS
			Brooklyn, MI	.2 mi.	400 mi.	ESPN
			Daytona Beach, FL	.25 mi.	400 mi.	ESPN

1995 Nascar Winston Cup Auto Racing Schedule

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1995 NASA WinStar Cup Auto Racing Schedule



Location	Track Length	Distance	TV Coverage
Jul. 9	Slick 50 300	Loudon, NH 1,058 mi.	TNN
Jul. 16	Müller Genuine Draft 500	Pocono, PA 25 mi.	TBS
Jul. 23	Diehard 500	Talladega, AL 266 mi.	CBS
Aug. 5	Brickyard 400	Indianapolis, IN 25 mi.	ABC
Aug. 13	The Bud at the Glen	Watkins Glen, NY 245 mi	ESPN
Aug. 20	GM Goodwrench Dealer 400	Brooklyn, MI 27 mi	ESPN
Aug. 26	Goody's 500	Bristol, TN 333 mi	ESPN
Sept. 3	Mountain Dew Southern 500	Darlington, SC 366 mi	ESPN
Sept. 9	Müller Genuine Draft 400	Richmond, VA 75 mi	ESPN
Sept. 17	Dover Downs 500	Dover, DE 1 mi	TBS
Sept. 24	Goody's 500	Martinsville, VA 326 mi	TNN
Oct. 1	Tyson Holly Farms 400	N. Wilkesboro, NC 625 mi	ESPN
Oct. 8	UAW-GM 500	Charlotte, NC 1.5 mi	400 laps
Oct. 22	AC-Delco 400	Rockingham, NC 0.017 mi	TBS
Oct. 29	Slick 50 500	Phoenix, AZ 1 mi	TNN
Nov. 12	NAPA 500	Atlanta, GA 1.522 mi	TNN 500 mi

THE SOURCE